



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Alan Scott Industries--Request for
Reconsideration
File: B-223743.2
Date: August 15, 1986

DIGEST

General Accounting Office will not reconsider dismissal of protest as untimely where protester has not provided an understandable explanation of why it was unable to protest "ambiguous" and "restrictive" specifications prior to receipt of quotations.

DECISION

On July 25, 1986, Alan Scott Industries filed with our Office a telegraphic protest concerning request for quotations No. DLA120-86-Q-A567 issued by the Defense Logistics Agency for the supply of hemostatic forceps. Scott said it had received notice that the award was made to another, higher priced, offeror, to which it objected on the basis that the protester:

" . . . was not offered the opportunity to supply samples that would have qualified our offer. Specifications for the above are restrictive beyond the state of the art when invoked. Repeated requests for specification samples to allow for our evaluation of ambiguous purchase descriptions continue to be refused."

In addition, Scott alleged that DLA's "restrictive specifications" had been "severely attacked" by a congressional committee and "other investigative bodies;" that DLA's "quality assurance restrictive specifications" were "analogous to control of award of contracts;" that Scott had a satisfactory record of performance; and that "review of U.S. Claims Court No. 419-82-C and May 30, 1985, pretrial deposition will disclose special agreements have been arranged for contractors of choice."

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We dismissed Scott's protest as untimely because its objections to DLA's "ambiguous" and "restrictive" specifications were not filed until after it had received notice of award of the contract, which necessarily is after the time for receipt of quotations. See 4 C.F.R. § 21.2(a)(1) (1986).

In a telegraphic request for reconsideration, Scott asserts that our dismissal is "not valid" because:

"1 - Protest was docketed via telex immediately upon receipt of 'Notice of Unsuccessful Bid,' July 25, 1986.

"2 - We were therefore not given the opportunity to protest prior to closing or award of contract."

The request for reconsideration is denied.

Scott's protest may well have been filed within 10 working days of its receipt of notice that award had been made to another firm; we have no reason to conclude otherwise. The fact remains, however, that Scott failed to file its protest prior to when quotations were due under a solicitation whose specifications it referred to once as "ambiguous" and three times as "restrictive." In its request for reconsideration, the operative portion of which we have quoted above in its entirety, Scott does not provide any understandable explanation of why it was not in a position to protest, prior to receipt of quotations, the solicitation terms to which it objects. Its request for reconsideration therefore shall not be considered. 4 C.F.R. § 21.12(a).

We note that we have denied similarly worded protests by Scott, where timeliness was not an issue, on the basis that the protester had not borne its burden of affirmatively proving its case. Alan Scott Industries, B-223121.2; B-223122.2; B-223123.2, Aug. 6, 1986, 86-2 C.P.D. ¶ ____.

for Seymour Efron
Harry R. Van Clève
General Counsel